

\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1715/2017**

SMT JAYA TIWARI & ANR

..... Petitioners

Through: Mr.S.S. Tomar, Advocate along with
petitioners in person.

versus

THE STATE & ORS

..... Respondents

Through: Mr.Piyush Aggarwal, Advocate for
Mr.Ashish Aggarwal, ASC for State with SI
Pawan Kumar, PS Vijay Vihar, Delhi.
Respondent no. 2 and 3 in person.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

%

13.10.2017

1. Status report has already been filed.
2. Respondents no. 2 and 3 appear in person. They are duly identified by IO SI Pawan Kumar.
3. Learned counsel for the petitioners submits that the FIR in question bearing no. 0907/2015 was registered on 05.07.2015 with PS Vijay Vihar, District Outer, Delhi under Section 420/468/471/120B/34 IPC against Prashant Tiwari (since deceased), his wife Jaya Tiwari, Balram Tiwari and Arpit Rai. He submits that the whereabouts of Arpit Rai are not known and he could not be joined as petitioner but was joined as respondent no. 4. He submits that Arpit Rai was one of the attesting witness to the Will. He submits that the respondent no. 4 Arpit Rai may be deleted from the array of parties. The request is not

opposed. Accordingly, the respondent no. 4 Arpit Rai is hereby deleted from the array of parties. Amended memo of parties shall be filed.

4. The petitioners have invoked the writ jurisdiction of this court under Article 226 & 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (in short 'Cr.PC') for quashing of the said FIR registered on the complaint of respondent No.2.
5. It is submitted that one civil suit for Declaration, Rendition of Accounts, Mesne Profits, Mandatory and Permanent Injunctions bearing No. 2843/2011 was filed in this court on the original side against the respondents no. 2 and 3 on the basis of a Will dated 11.05.2011 allegedly executed by late Sh. Shankar Tiwari in favour of Prashant Tiwari. This led the respondent no. 2 to file a complaint against both the petitioners, Prashant Tiwari (since deceased) and Arpit Rai before the learned MM. On a complaint filed by respondent No.2, vide order dated 23.05.2015, learned MM-04, Rohini Courts, Delhi Mr.Viplav Dabas ordered for registration of the FIR and to carry out a thorough investigation in the matter. Consequently, the said FIR was registered against the petitioners, Prashant Tiwari (since deceased) and Arpit Rai.
6. In the meanwhile, the civil suit pending in this court on the original side was transferred to the District Court, Rohini due to change of jurisdiction and was assigned to the court of Mr.Rakesh Kumar Sharma, ADJ, Rohini Courts, Delhi.
7. On making a reference by the learned ADJ, Rohini Courts, Delhi, the

parties had appeared before Delhi Mediation Centre, Rohini, Delhi. On 18.10.2016, the parties had amicably settled and resolved all their disputes before the learned Mediator. It was mutually agreed that the respondent no. 3 shall pay Rs.14,00,000/- to minor Aditya Tiwari, who is the son of late Prashant Tiwari & Jaya Tiwari and Rs.13,50,000/- shall be paid to Smt. Jaya Tiwari. This amount has already been paid to the petitioner no. 1. The amount so paid is the consideration of their share in the property in question i.e. F24, Budh Vihar, Phase-1, Delhi-110086. It was further agreed that Jaya Tiwari for herself as also natural guardian of her son namely Aditya Tiwari shall withdraw civil suit No. 305/2016 from the court of learned ADJ-3, North-West District, Rohini Courts, Delhi. It was further agreed that the suit property bearing No. F-24, Budh Vihar, Phase-I, Delhi-110086 shall be the exclusive property of Raj Nandani Devi.

8. Both the petitioners submit that the settlement of Rs.27,50,000/- has been paid by Raj Nandani Devi to petitioner no. 1 for herself and for the benefit of her minor son Aditya Tiwari. The petitioner no. 1 submits that she has deposited Rs.20,00,000/- by way of FDR, out of the total amount of Rs.27,50,000/- with Punjab National Bank, Rohini, Sector-7, Delhi in her name.
9. The respondents No.2 and 3, who are present in the court, submit that they had voluntarily settled and resolved all their disputes with the petitioners without any force and coercion. They submit that in view of the settlement they do not want to pursue the said FIR. They submit that the said FIR may be quashed.
10. Learned counsel appearing on behalf of learned ASC through the IO

submits that the charge sheet has so far not been filed.

11. In these circumstances, when the parties have amicably settled and resolved all their disputes, no purpose would be served in pursuing the said FIR. Hence, to secure ends of justice, the FIR bearing No.0907/2015 registered on 05.07.2015 with PS Vijay Vihar, District Outer, Delhi under Section 420/468/471/120B/34 IPC and proceedings arising out of the said FIR are hereby quashed subject to the petitioner no. 1 depositing Rs.14,00,000/- by way of an FDR in the name of Aditya Tiwari with Punjab National Bank, Sector-7, Rohini, Delhi for a period till he attains the age of majority. Thus, it is made clear that no loan shall be taken against the said FDR and shall not be prematurely encashed without the permission of the court.
12. One copy of the FDR shall be placed on record and another be supplied to the IO within 15 days.
13. The petition is disposed of accordingly.
14. *DASTI.*

VINOD GOEL, J.

OCTOBER 13, 2017

"shailendra"